

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Fred J. Boyes,
Appellant,

v.

City of Dubuque Board of Review,
Appellee.

ORDER

Docket No. 13-104-0398
Parcel No. 1012126002

On January 14, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Fred J. Boyes was self-represented. City Attorney Barry Lindahl is legal representative for the Board of Review. City Assessor Rick Engelken represented it at hearing. Both parties participated by telephone. The Appeal Board now, having heard the testimony, examined the entire record, and being fully advised, finds:

Findings of Fact

Fred J. Boyes is the owner of residentially classified property located at 4100 Peru Road, Dubuque, Iowa. The subject property is an auto salvage yard with two single-family dwellings. One dwelling is a one-story, brick house with 1284 square feet of total living area; a full basement with 600 square feet of finish; a 480 square-foot, attached garage; and two enclosed porches built in 1968. The property has an average quality construction grade (4+05) and is in poor condition. The second dwelling is a two-story, frame house with 1508 square feet of living area with a full, unfinished basement built in 1890. It is listed in poor condition and has a below-average quality grade (5+10). The improvements include two enclosed porches and a 572 square-foot, detached garage built in 1940 in below-normal condition and below-average quality grade (5). The property also includes a 3200

square-foot steel utility building built in 2005. The later discussed appraisal indicates the property also contains a 1200 square-foot, office/shop building built in 1968. It is a 4.03-acre site.

Although the property is classified as residential property, it is zoned heavy industrial and presently used by Boyes as an automobile salvage yard. The City imposed conditions limiting Boyes' continued use as a junkyard/salvage yard only. When the property ceases to be used as a junkyard or salvage yard, the property's zoning will change to residential.

Boyes protested his 2013 assessment of \$341,330, representing \$141,050 in land value and \$200,280 in improvement value to the City of Dubuque Board of Review. On his petition, Boyes wrote in the section claiming an inequitable assessment under Iowa Code section 441.37(1)(a)(1), however, he essentially raised a market value claim under section 441.37(1)(a)(2). The Board of Review granted his appeal, in part, reducing the assessment to \$323,330, allocated \$123,050 to land value and \$200,280 to improvement value.

Boyes then appealed to this Board reasserting his claim. He asserts the correct value of the property is \$273,000, the same assessment as 2012.

Boyes testified that his four-acre parcel is pie-shaped and not much can be built on it because of its rocky surface and a bluff located on one side. He also testified the 17-acre parcel next to the subject property sold last year for \$250,000. The sale parcel is zoned residential and houses will be built on that site. In his opinion, it is not fair for his inferior 4-acre parcel to be assessed at \$141,050, or \$35,000 per-acre, when the 17-acre parcel's market value is \$250,000, or \$14,700 per-acre.

Rick Engelken, the Dubuque City Assessor testified for the Board of Review. He stated all residential property in the City was revalued for the 2013 assessment. He visited with Boyes after the protest was submitted to the City and commissioned an appraisal on the subject property. The Board of Review commissioned appraiser Thomas F. Howes of Kane Appraisal Service in Dubuque to value the subject as of January 1, 2013. Howe describes the subject's area as historically predominately

agricultural with an increase in residential use over the past decade. He reports the neighborhood trend is continuing residential development. Howe's description is substantiated by aerial photographs submitted by the Board of Review that depict the subject's location surrounded by residential development and nearby agricultural properties. (Exhibit H).

Howe reports the subject has a triangular shape, which is below average quality due to this limitation. He notes some rock outcroppings. In his opinion, the rock and slope present additional limitations on potential use of the land. Howe used a partial cost approach to estimate the subject's land value and also employed the sales comparison approach to value the land and improvements.

To value the land using the cost approach, Howe used four comparable land sales in Dubuque and East Dubuque that occurred in 2006, 2007, 2011, and 2012. Because of the subject property's use limitation, sale properties were limited to those that were formerly junk/salvage yards or were purchased for that use. All of the sale properties were used in similar businesses, such as auto repair salvage business, road construction safety equipment, and scrap metal salvage, and had sale prices of \$10,389 to \$248,580 per-acre. Although he did not provide an adjustment grid, Howe identified conditions that made each comparable property superior to the subject, including alternative use flexibility, topography, size, and location. He concluded a value of \$75,000 an acre for an estimated land value of \$302,250. Howe failed to explain how he reconciled the sales data to \$75,000 per acre from such a broad value range. The improvements were not valued using the cost approach because Howe did not consider it reliable due to the significant depreciation and obsolescence of the improvements.

In his sales comparison approach to value, Howe used four improved comparable sales of junkyard/salvage yards in Iowa and Minnesota that occurred between 2006 and 2012. The sale prices ranged from \$475,000 to \$1,673,000, or \$23.86 to \$115.53 per-square-foot. Howe adjusted the sales for location, age/condition, size, and land-to-building ratio. We note a significant time adjustment

(80%) to the 2006 sale. Howe reported that some of the junkyard/salvage yard sales included residences. Therefore, he also reviewed sales of low-priced one and two-story home sales to prevent over or under estimating the contributory value of the subject improvements. This information was not included in his report. His adjusted prices ranged from \$40.63 to \$51.99 per-square-foot. Howe used a value of \$45 to \$46 per-square-foot, the middle of the adjusted range, to conclude the estimated value of \$325,000 by the sales approach. Howe gave the most weight to the sales approach, supported by the partial cost approach, to arrive at a final value conclusion of \$325,000, allocated \$302,250 to land value and \$22,750 to improvement value.

We find Howe's appraisal conclusions support the Board of Review assessment. Boyes did not provide any evidence to show the fair market value of his property. Viewing the record as a whole, the preponderance of the evidence does not prove Boyes' claim of over-assessment.

Conclusion of Law

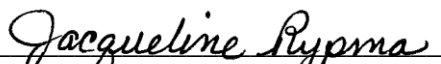
The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

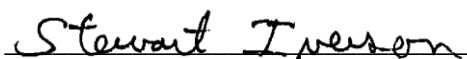
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).


In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Although Boyes reported a recent land sale, he did not provide any information about the sale or the property, such as its complete property record card, for this Board to determine if that property is comparable to the subject or the sale is reflective of the subject's market value. Ultimately, Boyes did not establish the fair market value of his property as of January 1, 2013. Therefore, we find a preponderance of the evidence does not prove his property is over-assessed.

THE APPEAL BOARD ORDERS the assessment of Fred J. Boyes' property located at 4100 Peru Road, Dubuque, Iowa, as set by the City of Dubuque Board of Review is affirmed.

Dated this 18th day of February, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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